

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FUSION ELITE ALL STARS, et al., Plaintiffs, v. VARSITY BRANDS, LLC, et al., Defendants.	Case No. 2:20-cv-02600-SHL-tmp JURY TRIAL DEMANDED
JONES, et al., Plaintiffs, v. BAIN CAPITAL PRIVATE EQUITY, et al., Defendants.	Case No. 2:20-cv-02892-SHL-tmp JURY TRIAL DEMANDED

**DECLARATION OF KATHERINE VAN DYCK IN SUPPORT OF PLAINTIFFS' JOINT
RESPONSE IN OPPOSITION TO MOTION TO QUASH OR MODIFY SUBPOENA
DIRECTED TO MARLENE COTA AND FOR PROTECTIVE ORDER**

I, Katherine Van Dyck, declare the following under penalty of perjury:

1. I am an attorney with the law firm of Cuneo Gilbert & LaDuca LLP, counsel for Plaintiffs, and Interim Co-Lead Counsel for Direct Purchasers in the above-captioned matter, *Fusion Elite, et al. v. Varsity Brands, et al.*, Case No. 2:20-cv-02600-SHL-tmp. I make this affidavit on personal knowledge and review of my files, except as otherwise indicated. I submit this declaration in support of Plaintiffs' Joint Response in Opposition to Motion to Quash or Modify Subpoena Directed to Marlene Cota and for Protective Order.

2. Attached as Exhibit 1 is a true and correct copy of initial disclosures served by Defendants Varsity Brands, LLC, Varsity Spirit, LLC, and Varsity Spirit Fashions & Supplies, LLC (“Varsity”) on *Fusion Elite* Plaintiffs on October 30, 2020.

3. Attached as Exhibit 2 is a true and correct copy of excerpts from the Responses of Varsity to Plaintiffs’ First Set of Interrogatories, served by Varsity on *Fusion Elite Plaintiffs* December 28, 2020.

4. Attached as Exhibit 3 is a true and correct copy of Appendix A to the Responses of Varsity to Plaintiffs’ First Request for Production of Documents, served by Varsity on *Fusion Elite* Plaintiffs on November 16, 2020.

5. Attached as Exhibit 4 is a true and accurate copy of Real Sports with Bryant Gumbel (“Real Sports”), Episode 8 (August 2021), available at <https://www.hbo.com/real-sports-with-bryant-gumbel/season-27/8-real-sports-august-2021> (last visited Jan. 3, 2021).

6. As part of Episode 8 of Real Sports, former Varsity employee Marlene Cota was interviewed by journalist Mary Carillo. The following is a true and accurate transcription of the portion of that interview that was included in the episode:

Cota: The priority was ‘protect the brand.’

Carillo: Not the child?

Cota: Correct

....

Cota: 90-95% of the business of cheerleading is controlled by Varsity.

Carillo: So from top to bottom? From the bows in their hair to all the events?

Cota: Ponytails to the toes.

....

Cota: They created a governing body so that they could manage how they were going to keep that growth, that machine, going.

Carillo: Did anyone see an issue with a massive multibillion dollar corporation creating the governing body?

Cota: No. You know the, the directive was always profit, profit, profit.

Carillo: So what is the USASF in your eyes?

Cota: It's just another appendage of Varsity.

7. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 10th day of January, 2022 in Washington, DC.

s/ Katherine Van Dyck

Katherine Van Dyck